REMARKS

In response to the Office Action mailed March 23, 2004, Applicant respectfully requests reconsideration. To further the prosecution of this Application, Applicant submits the following remarks. The claims as now presented are believed to be in allowable condition.

Claims 1-12 are pending in this Application. Claims 1-12 stand rejected. Claims 1-12 are herein amended.

Applicant appreciates the courtesy extended to Applicant's representative during a phone call on July 12, 2004. Claim language was discussed during the phone call, although no agreement as to allowability of the claims was reached. This discussion with the Examiner enabled Applicant to better prepare a response in connection with the claims.

The Examiner has made a provisional double patenting rejection regarding claims 1 and 3 over claims of co-pending application no. 09/82178. Upon an indication of allowance, Applicants will promptly file a terminal disclaimer.

The Examiner rejected claims 1-12 under 35 U.S.C. §103 as being anticipated by U.S. Patent No. 6,466,120 to Dantressangle (herein after Dantressangle) in view of U.S. Patent No. 6,510,402 to Logan et al. (hereinafter Logan). Regarding the rejection of independent claim 1, the Examiner stated "Obviously, when testing JAVA programming a virtual machine (software implementation of a processor) is running." Applicants respectfully submit that the Examiner's general statement is not accurate. As discussed with the Examiner, when testing the *functionality* of object oriented components it is advantageous to compile the component into native code and then to perform the testing, as this provides a more accurate testing of the actual component code

(as opposed to testing of the emulation of the native code – i.e. the byte code). However, for performing *load testing* of an object oriented software component, it is advantageous to test the component in its emulated byte code format as this provides additional load (the emulation itself) on the system. Thus, *for load testing purposes*, it is preferable to test the byte code compiled object oriented software component. This is accomplished with the use of a software implementation of a byte code processor, as recited in amended claim 1. Independent claim 7 has been amended in a similar manner. Accordingly, since claims 1 and 7 recite the use of a software implementation of a byte code processor for performing load testing on object oriented software components, claims 1 and 7 are believed allowable over Dantressangle in view of Logan. Claims 2-6 and 8-12 depend from claims 1 or 7 and are believed allowable as they depend from a base claim which is believed allowable.
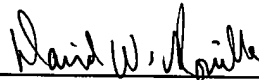
Conclusion

In view of the foregoing remarks, the Examiners rejections are believed to have been overcome, placing claims 1-12 in condition for allowance and reconsideration and allowance thereof is respectfully requested. If the Examiner believes, after this Response, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicant's Representative at the number below.

Applicant hereby petitions for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,

David W. Rouille, Esq.
Attorney for Applicant(s)
Registration No.: 40,150
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, Massachusetts 01581
Telephone: (508) 366-9600
Facsimile: (508) 616-9805

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Dated: _____ July 21, 2004 _____